

## Message Text

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PAGE 01 BRASIL 04336 012154Z

ACTION ARA-14

INFO OCT-01 EUR-12 NEA-11 ISO-00 CIAE-00 DODE-00 PM-05

H-01 INR-10 L-03 NSAE-00 PA-01 SP-02 SS-15 HA-05

ICAE-00 NSCE-00 INRE-00 SSO-00 /080 W

-----041296 012200Z /63

O P 012121Z JUN 78

FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC IMMEDIATE 7738

INFO AMEMBASSY BONN PRIORITY

AMCONSUL JERUSALEM PRIORITY

AMCONSUL RIO DE JANEIRO PRIORITY

AMCONSUL SAO PAULO PRIORITY

AMEMBASSY TEL AVIV PRIORITY

AMEMBASSY VIENNA PRIORITY

AMEMBASSY WARSAW PRIORITY

LIMITED OFFICIAL USE BRASILIA 4336

E.O. 11652: N/A

TAGS: SHUM, SREF, BR

SUBJECT: WAR CRIMINAL GUSTAV FRANZ WAGNER

REF: (A) BRASILIA 4305, (B) BRASILIA 4286, (C) SAO PAULO 1577

1. BRAZILIAN PRESS REPORTED JUNE 1 THAT GOB MINISTRY OF JUSTICE PLACED ALLEGED WAR CRIMINAL GUSTAV FRANZ WAGNER (REFTELS) UNDER PREVENTIVE CUSTODY ON MAY 31 AT THE REQUEST OF FEDERAL REPUBLIC OF GERMANY. CUSTODY WAS FIXED AT 90 DAYS, ACCORDING TO GOB LAW, DURING WHICH DOCUMENTATION SUPPORTING A PETITION FOR EXTRADITION WOULD HAVE TO BE PRODUCED. FOREIGN MINISTRY MAY 30 REQUESTED JUSTICE MINISTRY TO PLACE WAGNER UNDER PREVENTIVE CUSTODY ON THE BASIS OF THE FRG PETITION. SUBSEQUENTLY SAO PAULO GOVERNOR MARTINS ORDERED THE DEPARTMENT OF POLITICAL AND SOCIAL POLICE (DOPS) TO TURN WAGNER OVER TO THE BRAZILIAN FEDERAL POLICE, WHICH TOOK PLACE THE EVENING OF

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PAGE 02 BRASIL 04336 012154Z

MAY 31. AT THE END OF 90-DAY CUSTODY PERIOD, DURING WHICH JUSTICE MINISTRY WOULD STUDY DOCUMENTATION AND EXTRADITION PETITION, CASE WOULD BE GIVEN TO SUPREME FEDERAL TRIBUNAL FOR DECISION.

2. ACCORDING TO ARTICLE 90 OF GOB'S DECREE-LAW NO. 941 (1969), EXTRADITION COULD BE MADE EITHER (A) TO THE STATE ON WHOSE

TERRITORY THE MOST SERIOUS CRIME, ACCORDING TO BRAZILIAN LAW, HAD BEEN COMMITTED; (B) TO THE STATE HAVING MADE THE PRIOR EXTRADITION REQUEST, THE CRIMES COMMITTED IN MORE THAN ONE STATE BEING OF EQUAL GRAVITY; OR (C) TO THE STATE OF ORIGIN OR DOMICILE OF THE PERSON BEING EXTRADITED. THE GOB HAS LEGAL DISCRETION TO DECIDE AMONG THE SEVERAL POSSIBILITIES. THE PRESS QUOTED AN AIDE TO JUSTICE MINISTER ARMANDO FALCAO TO THE EFFECT THAT PREFERENCE WAS GENERALLY GIVEN TO A STATE WITH AN EXTRADITION TREATY OR A RECIPROCAL COOPERATION ARRANGEMENT WITH BRAZIL. ACCORDING TO A LIST PROVIDED BY THE AID AND PUBLISHED IN JORNAL DE BRASILIA (JUNE 1), NONE OF THE FOUR CONCERNED PARTIES (FRG, AUSTRIA, POLAND, ISRAEL) HAS AN EXTRADITION TREATY WITH BRAZIL, ALTHOUGH THE FRG HAS COOPERATED WITH THE GOB ON EXTRADITION CASES IN THE PAST.

3. COMMENT. IT APPEARS THAT BRAZILIAN AUTHORITIES, IN THE FACE OF WIDESPREAD NATIONAL AND INTERNATIONAL MEDIA COVERAGE, ARE SCRUPULOUSLY CARRYING OUT THE LEGAL PROVISIONS OF GOB LAW IN HANDLING THE WAGNER CASE. DRAMATIC NATURE OF CASE WAS DEMONSTRATED EVENING ON MAY 31 IN TELEVISED CONFRONTATION BETWEEN WAGNER AND SOBIBOR SURVIVOR STANISLAW SZMAJZNER IN OFFICE OF SAO PAULO DOPS CHIEF SILVIO PEREIRA MACHADO. SZMAJZNER, AUTHOR OF BOOK "INFERNO AT SOBIBOR", GREETED WAGNER IN GERMAN AND ACCUSED HIM OF MURDERING HIS PARENTS AND COMMITTING NUMEROUS OTHER ATROCITIES. WAGNER REPEATEDLY MAINTAINED HIS INNOCENCE AND CHARGED THAT HE WAS VICTIM OF LIES. SAO PAULO POLICE LIMITED OFFICIAL USE

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PAGE 03 BRASIL 04336 012154Z

OFFICIALS INDICATED TO CONGENOFF JUNE 1 THAT, EVEN LACKING DEFINITIVE IDENTITY DOCUMENTS, THEY WERE NEVERTHELESS SATISFIED THAT THE GUSTAV WAGNER HELD IN CUSTODY WAS INDEED A WANTED WAR CRIMINAL. THEY ALSO NOTED, IN RESPONSE TO CONGENOFF'S QUESTION, THAT WAGNER DID HAVE BRAZILIAN-BORN CHILDREN. SAYRE

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## Message Attributes

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**Current Classification:** UNCLASSIFIED  
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**Decaption Date:** 01 jan 1960  
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**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
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